

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

ODESSA WILLIAMS AND MARY WILLIAMS

PLAINTIFFS

VS.

CIVIL ACTION NO.: 4:11-cv-00145-SA-JMV

**CARROLL COUNTY, MISSISSIPPI,
BY AND THROUGH ITS BOARD OF SUPERVISORS;
CARROLL COUNTY SHERIFF JERRY CARVER, IN HIS
INDIVIDUAL CAPACITY AND JOHN DOES 1-10**

DEFENDANTS

**DEFENDANTS' ANSWER AND AFFIRMATIVE
DEFENSES TO THE PLAINTIFFS' COMPLAINT**

COME NOW the Defendants, Carroll County, Mississippi and Sheriff Jerry Carver ("Defendants"), by and through their attorneys of record, and respectfully answer or otherwise respond to Plaintiffs' Complaint and would show as follows:

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Defendants plead all applicable statutes of limitations.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs' alleged injuries were not caused by a policy or custom of Carroll County, Mississippi. Therefore, there is no county liability under federal law.

FOURTH AFFIRMATIVE DEFENSE

Punitive damages cannot be assessed against the Defendant Carroll County.

FIFTH AFFIRMATIVE DEFENSE

While denying that Plaintiffs are entitled to punitive damages, Defendants affirmatively plead that an award of punitive damages in an amount in excess of that proportion permitted by the laws of the United States would violate the Due Process protections of the U.S. Constitution.

Further, Mississippi laws and procedures governing punitive damages are violative of the 6th Amendment, 8th Amendment, the Due Process Clause and Equal Protection Clause of the 14th Amendment, and other provisions, of the United States Constitution in Article III., Section 14 and other provisions of the Constitution of the State of Mississippi.

SIXTH AFFIRMATIVE DEFENSE

Defendants plead all applicable provisions of the Mississippi Tort Claims Act, MISS. CODE ANN. § 11-46-1 *et seq.*, including, but not limited to, all applicable statutes of limitations, all exemptions from liability, all jurisdictional prerequisites to suit and no right to a jury trial.

SEVENTH AFFIRMATIVE DEFENSE

The individual defendant is entitled to qualified immunity from Plaintiffs' claims in that his conduct did not violate clearly established constitutional rights of which a reasonable person would have known.

ANSWER

Without waiving any of the aforementioned Affirmative Defenses, Defendants respond to The Complaint as follows:

PARTIES

1. Defendants are without information sufficient to admit or deny the allegations contained within paragraph 1 of the Complaint, and accordingly, deny same.
2. Defendants admit Carroll County is a political subdivision of the State of Mississippi and that it may be served with process by effecting same upon the Chancery Clerk. Defendants deny the remaining allegations contained in paragraph 2 of the Complaint.
3. Defendants admit Sheriff Carver is an adult resident citizen of Carroll County, Mississippi and that he is the duly elected Sheriff of Carroll County, Mississippi. Defendants deny the remaining allegations contained within paragraph 3 of the Complaint.

4. Defendants are without information sufficient to admit or deny the allegations contained within paragraph 4 of the Complaint, and accordingly, deny same.

JURISDICTION

5. Defendants admit Plaintiffs seek to bring the claims set forth in paragraph 5 of the Complaint but deny any liability for same.

6. Defendants admit Plaintiffs seek to bring the claims set forth in paragraph 6 of the Complaint but deny any liability for same.

VENUE

7. Defendants admit the United States District Court for the Northern District of Mississippi, Greenville Division, is the proper venue. Defendants deny the remaining allegations contained within paragraph 7 of the Complaint.

FACTS

8. Defendants deny the allegations contained within paragraph 8 of the Complaint.

9. Defendants deny the allegations contained within paragraph 9 of the Complaint.

10. Defendants deny the allegations contained in paragraph 10 of the Complaint.

11. Defendants are without information sufficient to admit or deny the allegations contained within paragraph 11 of the Complaint, and accordingly, deny same.

12. Defendants deny the allegations contained in paragraph 12 of the Complaint.

13. Defendants deny the allegations contained in paragraph 13 of the Complaint.

14. Defendants deny the allegations contained in paragraph 14 of the Complaint.

15. Defendants deny the allegations contained in paragraph 15 of the Complaint.

CLAIMS OF MARY WILLIAMS

16. Defendants deny the allegations contained in paragraph 16 of the Complaint.

COUNT I

ACTION FOR DEPRIVATION OF CIVIL RIGHTS

17. Defendants incorporate their responses to paragraphs 1-16 in response to the allegations contained within paragraph 17 of the Complaint.

18. Defendants deny the allegations contained in paragraph 18 of the Complaint, including subsections (a) through (c).

ACTS OF SHERIFF JERRY CARVER AND CARROLL COUNTY, MISSISSIPPI

19. Defendants deny the allegations contained in paragraph 19 of the Complaint.

20. Defendants deny the allegations contained in paragraph 20 of the Complaint.

21. Defendants deny the allegations contained in paragraph 21 of the Complaint.

COUNT II

ACTION FOR CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS

22. Defendants incorporate their responses to paragraphs 1-21 in response to the allegations contained within paragraph 22 of the Complaint.

23. Defendants deny the allegations contained in paragraph 23 of the Complaint.

24. Defendants deny the allegations contained in paragraph 24 of the Complaint.

COUNT III

ACTION FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

25. Defendants incorporate their responses to paragraphs 1-24 in response to the allegations contained within paragraph 25 of the Complaint.

26. Defendants deny the allegations contained in paragraph 26 of the Complaint.

COUNT IV

ACTION FOR NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

27. Defendants incorporate their responses to paragraphs 1-26 in response to the allegations contained within paragraph 27 of the Complaint.

28. Defendants deny the allegations contained in paragraph 28 of the Complaint.

PRAYER FOR RELIEF

29. Defendants deny the allegations contained in paragraph 29 of the Complaint, including subsections (a) through (g).

Defendants deny any allegations contained in the Plaintiffs' Complaint not expressly admitted herein and further deny Plaintiffs are entitled to any of the relief requested in the Complaint.

WHEREFORE, PREMISES CONSIDERED, Defendants respectfully request that this Court dismiss the Complaint and award Defendants costs, expenses and attorneys' fees.

February 10, 2012.

Respectfully submitted,

PHELPS DUNBAR, LLP

BY: /s/Saundra Strong

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CERTIFICATE OF SERVICE

I, SAUNDRA STRONG, do hereby certify that on February 10, 2012 I electronically filed the foregoing *ANSWER & AFFIRMATIVE DEFENSES* with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following counsel of record:

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/s/Saundra Strong
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